IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

Crl.MC.No. 1257 of 2005()

CC.453/2003 of JUDL.MAGISTRATE OF FIRST CLASS, NADAPURAM

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PETITIONER: ACCUSED

M.K.KUNHIRAMAN MASTER,
S/O. KELAPPAN, P.E.TEACHER,
K.R.HIGH SCHOOL, PURAMERI AMSOM DESOM,
VADAKARA TALUK, KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

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1. KAYYAMVELLI KANARAN, S/O. POKKAN,
PURAMERI AMSOM DESOM, VADAKARA, KOZHIKODE.

2. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 05/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1257 of 2005

Dated this the day of January 2007

O R D E R

Against the petitioner, the respondent has filed a private complaint alleging commission of offences punishable under Section 506 and 507 I.P.C. The crux of the allegation is that the petitioner indulged in intimidation by sending anonymous letters on 31/1/1996 and 02/03/1996 to the complainant/respondent herein. Those offences are punishable with imprisonment for a period of two years each. It is made clear that the punishment under Section 507 I.P.C can be in addition to the punishment provided under Section 506. The complaint was filed only on 06/02/2003. The petitioner raises the contention that the criminal prosecution is liable to be quashed invoking the powers under Section 482 Cr.P.C for the short reason that cognizance is barred by limitation under the provisions of the Chapter 36 of Cr.P.C. There is no dispute that Section ..... Cr.P.C has application to the facts of the case. That means that cognizance must have been taken within a period of three years. Under Section 469 (i)(b) Cr.P.C, the date on which the period of limitation would commence is specified under the code. I extract Section 469(1) below:

> "469. **Commencement of the period of limitation**.- (1) The period of limitation, in relation to an offence, shall commence, -
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> (a) on the date of the offence; or
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> (b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or
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> (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier."

2. As per the allegations in the complaint, though the anonymous letters intimidating the complainant were received in January and March 1996, the complainant could ascertain the identity of the miscreant only on 13/01/2003. He has advanced a version as to how he came to know of the identity of the miscreants. Whether that version can be accepted or not is a different question. That question will have to be decided in the course of trial. But the averment shows that the identity of the petitioner as the miscreant responsible for the two anonymous letters of intimidation could be ascertained by the petitioner only on 13/01/2003. So, though the offence can be said to be committed in January and March 1996, the period of limitation

as per the averments in the complaint can commence only on 13/01/2003. The complaint having been filed admittedly on 06/02/2003, I find no merit in the contention that the complaint is barred by limitation. The plea has got to fail.

3. In the result, this Criminal Miscellaneous Case is dismissed but I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate including the contention that the period of limitation must have commenced on any earlier date.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006